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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,287	04/14/2003	Werner Langbauer	CBZ-620	1124

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EXAMINER	
ALEXANDER, REGINALD	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088,287

Applicant(s)

LANGBAUER, WERNER

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 41-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-45, 48-52, 54-59, 61, 62, 64, 67-71 and 76-82 is/are rejected.
- 7) ☒ Claim(s) 46, 47, 53, 60, 63, 65, 66, 70 and 72-75 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 64 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 64, it is not clear to what the tank is supported to. There is recited structure to perform the supporting but the claim is silent to what it is supported.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41, 42, 44, 45, 56-59, 61, 62, 67-69, 71 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohn.

There is disclosed in Cohn a beverage production device, comprising: a tank 12 for liquid; a screen basket 15 movably disposed in the tank; a sealing device 39 disposed about the circumference of the basket; and a drive system 60, 61 attached to the basket; wherein the basket is sized with respect to the tank such that a relatively small gap is defined between the basket and inside wall of the tank, the sealing device being disposed in the gap.

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Claims 76-82 are rejected under 35 U.S.C. 102(b) as being anticipated by Fant.

Fant discloses a sachet 1 configured for holding an infusion material 3 wherein a beverage is produced by infusing a liquid, the sachet comprising a plurality of separable chambers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Howitt.

Howitt discloses means 38 to rotatably move an infusion basket within a tank. It would have been obvious to one skilled in the art to modify the basket drive means of Cohn with that taught by Howitt, in order to provide a rotating movement to the basket and improve the infusion process.

Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Haley.

Haley discloses a screen basket having impermeable side walls and a permeable floor 29 and lid 26. It would have been obvious to one skilled in the art to substitute the basket of Cohn with that disclosed in Haley, in order to provide an alternative basket arrangement.

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Claims 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Kessel.

Kessel discloses the use of a multi-chambered perforated support basket. It would have been obvious to one skilled in the art to substitute the basket of Cohn with that disclosed in Kessel, in order to provide an alternative basket arrangement.

Claims 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Knepler.

Knepler discloses the use of a programmable controller 24 to operate the brewing device. It would have been obvious to one skilled in the art to provide the device of Cohn with the controller disclosed in Knepler, in order to guide operation of the device and the various brewing steps.

### ***Allowable Subject Matter***

Claims 46, 47, 53, 60, 63, 65, 66, 70 and 72-75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Moore and Waline are cited for their disclosure of the state of the art.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
February 23, 2004

  
Reginald L. Alexander  
Primary Examiner  
Art Unit 1761